

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) L9090/269380	
I hereby certify that this correspondence is being filed VIA EFS WEB (ONLINE) [37 CFR 1.8] on July 28, 2008		Application Number 10/077,546	Filed February 15, 2002
Signature <u> /Gina Hamrick </u>		First Named Inventor PETER A. LEEDS	
Typed or printed Name <u> Gina Hamrick </u>		Art Unit 3694	Examiner Brian E. Fertig
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest.</p> <p>See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record.</p> <p>Registration number <u>40,339</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.</p> <p>Registration number _____</p> </div> <div style="width: 45%; text-align: right;"> <p><u>/Brenda O. Holmes/</u></p> <p>_____ Signature</p> <p><u>Brenda O. Holmes</u></p> <p>_____ Typed or printed name</p> <p><u>404-815-6500</u></p> <p>_____ Telephone number</p> <p><u>July 28, 2008</u></p> <p>_____ Date</p> </div> </div>			
<input type="checkbox"/> *Total of _____ forms are submitted.			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Peter A. Leeds et al.

SERIAL NO.: 10/077,546

FILED: February 15, 2002

FOR: **MANAGEMENT SYSTEMS AND
METHODS FOR MAXIMIZING
RETURN ON ASSETS**

CONFIRMATION NO.: 3820

GROUP ART UNIT: 3694

EXAMINER: Brian E. Fertig

**CERTIFICATE OF TRANSMISSION UNDER
37 CFR 1.8**

I hereby certify that this correspondence, together with any correspondence referred to as enclosed or attached, is being electronically filed with United States Patent Office via EFS Web on July 28, 2008.

/Gina Hamrick/

Gina Hamrick

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Attorney Docket No.: L9090/269380
Date: July 28, 2008

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Responsive to the final office action dated April 28, 2008 (the "Final Action"), and in conjunction with the Notice of Appeal filed herewith, Assignee respectfully submits the following Request for Review in connection with this application and in accordance with OG Notice of 12 July 2005. A concise statement setting forth the reasons for the request is set forth below.

REASONS FOR THE REQUEST

The Final Action rejected the pending claims under 35 U.S.C. § 102(c) as being anticipated by U.S. Patent No. 5,978,776 to Seretti et al.(hereinafter "Seretti"). The Final Action represented the first time that the Examiner had rejected claims on the basis of Seretti. In an attempt to move the case forward, Assignee requested an interview, but the Examiner, stating that he would prefer that Assignee either file a Request for Continued Examination or an Appeal, exercised his discretion and declined to interview the case. Assignee sincerely and respectfully

believes that the claim rejections over Seretti are not justified; previously Assignee has argued that similar claim rejections over US Patent 6,236,977 to Verba et al. (hereinafter “Verba”) were not justified for the same reasons. Hence, Assignee does not believe that a Request for Continued Examination is warranted at this time. Assignee respectfully requests review of the erroneous rejection in view of the Remarks set forth below.

REMARKS

Anticipation Rejections

At page 2 of the Office action, the Examiner has rejected claims 1-4, 6-19, and 21-40 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,978,776 to Seretti et al.(hereinafter “Seretti”). Assignee respectfully traverses this rejection and requests its reconsideration and withdrawal.

Independent claims 1 and 21 recite serial redeployment of an asset within an entity whereby the entity first seeks to redeploy the asset with an on-line internal trading community and then, failing that, attempts to redeploy the asset through either an on-line private trading community or an on-line public marketplace. Previously, in an office action dated October 9, 2007, the examiner rejected then-pending claims as being anticipated by Verba. In response, Assignee amended the claims to be in their now pending form and argued that Verba failed to teach the serial redeployment as required by the claims. (See response filed January 9, 2008, at page 9). Seretti suffers from the same failure to teach the claimed serial redeployment.

Seretti teaches computer-implemented marketing and selling of vehicles. In particular, Seretti teaches a vehicular exchange system whereby information about a vehicle is entered into a computer terminal and is then transmitted to and made available for display on a plurality of

other computer terminals at other automobile dealerships. Although Seretti may teach transmitting vehicle information from one automobile dealership for display on selected computer terminals at other dealerships, Seretti does not teach a system of managing an entity's assets by trying to redeploy an asset first internally and then, if that attempted redeployment fails, trying to redeploy the asset either privately or publicly. This serial redeployment of assets starting with internal redeployment distinguishes the present application from Seretti and is the same feature that distinguished the present application from Verba. (See response filed January 9, 2008, at page 9).

The Examiner has erred by not showing that Seretti discloses serial redeployment of assets starting with internal redeployment and then, failing that, progressing to redeployment privately or publicly, as taught by independent claims 1 and 21. In particular, Seretti has no teaching whatsoever directed at attempted redeployment of vehicles in an on-line internal trading community within the entity (which in Seretti's case is an automobile dealership). The Examiner has pointed to step S110 discussed at col. 6, lines 56-61 and Figure 5 of Seretti as satisfying the limitation of "listing, by the entity, select assets with the on-line internal trading community." However, Step S110 of Seretti's Figure 5 recites "inputting vehicular characteristics data units into a data inquiring computer terminal" and simply teaches entering information about a vehicle into a computer. This teaching, when combined with the further teaching of making that information available to other computer terminals at selected dealerships through the mechanism of a discriminator as discussed at col. 4, line 52 to col. 5, line 7 of Seretti, may teach listing of assets with an on-line private trading community. However, it in no way discloses listing of assets with an on-line internal trading community in which, in the case of Seretti's system,

vehicles would be listed for resale within the dealership. Seretti at best teaches an on-line private trading community, but does not teach an on-line internal trading community through which the entity first attempts to redeploy assets. Thus, Seretti does not teach first listing an asset internally and then, if the asset does not redeploy within the entity as a result of the on-line internal listing, listing it with an on-line private community—this is the same deficiency that Assignee has previously argued with respect to Verba (See response filed January 9, 2008, at page. 9; see also response filed September 18, 2007, at pages 9-10).

The Examiner also erred by not showing that Seretti teaches an on-line public marketplace as taught by independent claims 1 and 21. The Examiner points to Seretti's teaching with respect to wholesalers at col. 1, lines 46-58 and col. 7, lines 25-27 as teaching an on-line public marketplace. However, this teaching refers to traditional automobile wholesalers without in any way teaching an on-line marketplace. Col. 7, lines 25-27 teach that the Seretti vehicular exchange system can reduce or even eliminate the need for a traditional wholesaler, but does not teach an on-line public marketplace.

The other rejected claims depend from one or the other of these independent claims. Accordingly, Applicants submit that Seretti does not teach each and every limitation of the rejected claims and therefore does not anticipate them under 35 U.S.C. § 102(e). Applicants respectfully submit that the Examiner has not established a prima facie case for the anticipation rejections.

CONCLUSION

For the reasons set forth above, Applicants respectfully request allowance of the pending claims.

Respectfully submitted,
/Brenda O. Holmes/
Brenda O. Holmes
Reg. No. 40,339

Date: July 28, 2008
KILPATRICK STOCKTON LLP
Suite 2800, 1100 Peachtree Street
Atlanta, Georgia 30309-4530
(404) 815-6530